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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION

CASCADIA WILDLANDS, an Oregon
non-profit corporation,

Case No.: 6:19-cv-00638-MC

JOINT STATUS REPORT

Plaintiff,

v.

Office of the Oregon State Director for
USDA-APHIS Wildlife Services;
ANIMAL AND PLANT HEALTH
INSPECTION SERVICE-WILDLIFE
SERVICES, an agency of the United
States Department of Agriculture; and
UNITED STATES DEPARTMENT OF
AGRICULTURE, a federal department,

Defendants.

The undersigned counsel for the parties have conferred and hereby submit the following Joint Status Report with a proposed schedule for the Court's consideration. The parties are Plaintiff Cascadia Wildlands ("Plaintiff" or "Cascadia Wildlands") and Defendant United States Department of Agriculture ("USDA"), Defendant Animal and Plant Health Inspection Service ("USDA-APHIS"), and Defendant Office of the Oregon State Director for

USDA-APHIS Wildlife Services (“USDA-APHIS-WS Oregon”) (collectively “Federal Defendants”).

1. Brief summary of the case: Plaintiff Cascadia Wildlands initiated this lawsuit on April 26, 2019 (“Complaint”) (ECF No. 1) alleging violations of the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, *et seq.* and the Administrative Procedure Act (“APA”), 5 U.S.C. § 701 *et seq.*, regarding Plaintiff’s April 23, 2018 FOIA Request (“FOIA Request”). The FOIA Request upon which this suit is based sought five categories of records regarding and related to federal operations and activities related to Federal Defendants’ wildlife damage management activities in Oregon. *See* Complaint, Paragraphs 35 – 37, 38 and Exhibit 1. Pursuant to the Stipulation and Joint Motion for Entry of Agreed Order Setting Disclosure Schedule (ECF No. 9) and the Scheduling Order (as extended) (ECF Nos. 10, 11) (collectively, the “Scheduling Order”), Federal Defendants released approximately 12,345 pages of records. Federal Defendants have released draft *Vaughn* indices and other information to justify all withholdings made pursuant to one or more FOIA Exemptions. Federal Defendants offered, and Plaintiff agreed, for Federal Defendants to release approximately 11,000 additional pages of “Work Initiation Documents” (“WIDs”) summary reports in lieu of the WID records themselves. The Parties completed their agreed-upon and court-ordered record release and exemption challenge meet and confer process on October 29, 2020. Federal Defendants’

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discretionary release of WID summary reports is ongoing, with the January release scheduled for today, January 29, 2021. Plaintiff seeks its attorneys' fees and costs. Complaint, Paragraphs 10, 106, 108, 149, 158. Federal Defendants deny that Plaintiff is entitled to the requested relief or to any other relief. Answer, at 13. The Scheduling Order did not provide for a meet and confer mechanism for the Parties to address attorneys' fees and costs.

2. Possibility of Settlement: The Parties are actively engaged in settlement discussions at this time, including working on resolving their disputes about the Plaintiff's claim for attorneys' fees and costs. Plaintiff provided a request for fees and costs to Federal Defendants on November 14, 2020, accompanied by time entries for two attorneys and one law clerk, noting that a third attorney's time entries would be forthcoming shortly. On November 18, 2020, Plaintiff provided the time entries for a third attorney who worked on the case. Federal Defendants considered Plaintiff's request and determined they want to provide a counteroffer. A counteroffer has not yet been provided to Plaintiff because Federal Defendants require coordination within APHIS and various internal approvals prior to providing counteroffer figures for settlement. Additionally, the AUSA assigned to the case was on extended medical leave throughout the month of December and for part of January. However, Federal Defendants discussed Plaintiff's attorney fee and cost request during her absence. Federal Defendants

require additional time to continue internal discussions prior to providing a counteroffer and are unable to commit to a date certain to provide a counteroffer to Plaintiff. Plaintiff will then need time to consider the counteroffer once provided. The Parties propose to file a Joint Status Report providing an update on the status of settlement negotiations with the Court on or before March 15, 2021. If at any time the parties' discussions regarding attorneys' fees and costs terminate without a negotiated resolution, Plaintiff may elect to file a motion for attorneys' fees and costs with the Court.

Respectfully submitted January 29, 2021.

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